101ST CONGRESS
2d Session

SENATE

REPORT
101-531

LOOK BACK SEQUESTRATION ACT

REPORT

OF THE

COMMITTEE ON THE BUDGET
UNITED STATES SENATE

TO ACCOMPANY

S. 1850

together with

ADDITIONAL AND MINORITY VIEWS

To require sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more $10,000,000,000

OCTOBER 12, (legislative day, OCTOBER 2), 1990.—Ordered to be printed

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REPORT
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LOOK BACK SEQUESTRATION ACT

OCTOBER 12, (legislative day, OCTOBER 2), 1990.—Ordered to be printed

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Mr. SASSER, from the Committee on the Budget, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 1850]

The Committee on the Budget submits the following report, accompanying S. 1850.

The Committee on the Budget ordered reported S. 1850 with an amendment in the nature of a substitute, which, if adopted, would cause the bill to read as follows:

[S. 1850, 101st Cong., 2d Sess.]

A BILL To require sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more than $10,000,000,000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SEQUESTRATION TO COVER DEFICIT SPENDING IN A PRECEDING FISCAL YEAR IN EXCESS OF $10,000,000,000.

(a) DETERMINATION OF DEFICIT SPENDING.—Section 251(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(A)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraph (E) and (F), respectively; and

(2) by inserting immediately after subparagraph (B) the following new subparagraphs:

"(C) estimate the budget levels of total revenues and outlays that may be anticipated for the preceding fiscal year as of August 15 of the preceding fiscal year, such estimates to be based on the

same economic and technical assumptions on which the estimates for the fiscal year pursuant to subparagraph (A) were made the previous year,

"(D) determine whether the projected deficit for the preceding fiscal year will exceed the maximum deficit amount for the preceding fiscal year and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993), such determination to be based on the same economic and technical assumptions on which the determination for that fiscal year pursuant to subparagraph (B) was made the previous year,".

(b) REPORTS.—Section 251(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(2)) is amended—

(1) in subparagraph (A) by striking "1993), estimating" and inserting "1993), identifying the amount of any deficit excess for the preceding fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal year 1993), estimating";

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting the following new subparagraph after subparagraph (B):

"(C) The budget of the United States submitted by the President pursuant to section 1105, United States Code, and the supplemental budget submitted pursuant to section 1106, United States Code, shall include a determination whether the projected deficit for the fiscal year preceding the fiscal year for which the budget and supplemental budget are submitted will exceed the maximum deficit amount for the preceding fiscal year (such determination to be made using the same technical and economic assumptions that the Director of OMB used in making the initial determination of the deficit excess for that fiscal year in the report made pursuant to subparagraph (B)) and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993).";

(4) by adding the following new clauses at the end of subparagraph (D) (as redesignated by paragraph (2)):

"(v) The Director of CBO, in making the determination of the deficit excess of a fiscal year in the revised report made pursuant to section (c)(1), shall use the same technical and economic assumptions that were used in making the initial determination of the deficit excess for that fiscal year in the report made pursuant to subparagraph (A).

"(vi) The Director of OMB, in making the determination of deficit excess of a fiscal year in the revised report made pursuant to section (c)(2), shall use the same technical and economic assumptions that were used in making the initial determina-

tion of the deficit excess for that fiscal year in the report made pursuant to subparagraph (B).".

(c) DETERMINATION OF REDUCTIONS.—Section 251(a)(3)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(3)(A)) is amended—

(1) in subclause (II) by striking "or" at the end thereof;

(2) in subclause (III) by—

(A) striking "1990, 1991, 1992, or 1993," and inserting "1990 and 1991,"; and

(B) striking the period and inserting "; or" at the end thereof; and

(3) by adding the following new subclause at the end thereof:

"(IV) for fiscal year 1992 or 1993—

"(aa) zero if the deficit excess for such fiscal year and the preceding fiscal year is equal to or less than the amount of the margin for each such fiscal year, respectively, specified in paragraph (10) of section 257; or

"(bb)(aa) if the deficit excess for such fiscal year is greater than the amount of the margin for such fiscal year specified in paragraph (10) of section 257, the amount of the deficit excess for such fiscal year; and

"(bbb) if the deficit excess for the preceding fiscal year is greater than the amount of the margin for the preceding fiscal year specified in paragraph (10) of section 257, the amount of the deficit excess for the preceding fiscal year minus the amount of the margin for the preceding fiscal year.".

(d) USE OF CBO ECONOMIC ASSUMPTIONS.—Section 301(g) of the Congressional Budget Act of 1974 (2 U.S.C. 632(g)) is amended to read as follows:

"(g) ECONOMIC ASSUMPTIONS.—

"(1) Determinations under titles III and IV for any fiscal year shall be based upon the economic and technical assumptions of the Congressional Budget Office.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for a fiscal year, or any amendment hereto, or any conference report thereon, that sets forth amounts and levels that are not determined in accordance with paragraph (1). A point of order under this paragraph may be waived or suspended in the Senate or the House of Representatives only by the affirmative vote of three-fifths of the Members of the Senate or the House of Representatives duly chosen and sworn.

"(3) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall clearly set forth the economic assumptions upon which such joint statement and conference report are based.".

I. Summary of the Legislation

On the motion of Senator Kent Conrad, by a vote of 15 to 5, the Committee on the Budget ordered reported S. 1850, the "Look Back Sequestration Act," with an amendment in the nature of a substitute. This bill (as amended by the substitute) requires sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more than $10,000,000,000.

II. Need for Legislation

This bill closes a loop-hole in the current Gramm-Rudman-Hollings [1] law that allows Congress to shift funding into or increase funding in the current fiscal year once the sequestration window has passed. S. 1850 (as amended by the substitute) would leave the current provisions of Gramm-Rudman-Hollings in place, but would require sequestration for spending in the current fiscal year if policy changes increased the deficit beyond the $10 billion cushion.

Under the provisions of this bill, when the Office of Management and Budget (OMB) determines the need for a sequestration based on the projected deficit for the next fiscal year, it would also look at the fiscal year just completed and determine whether Congressional action caused the deficit to increase.

This bill scrutinizes Congressional action only. Changes in economic or technical assumptions that raised the deficit would not trigger a sequester under the provisions of the bill. The bill would be implemented for fiscal year 1991 causing the first "look back" sequestration determination to occur in October 1991.

If Congressional action pushed the deficit over the target (by more than $10 billion), sequestration would be required to bring the deficit back down to the cushion level. This sequestration would be determined separately, but occur at the same time as the sequestration definition for the upcoming fiscal year.

III. Legislative History

On November 8, 1989, this legislation was referred to Senate Committees on Budget and Governmental Affairs pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days of continuous session to report or be discharged. On July 25, 1990 the Senate Budget Committee considered S. 1850 in a markup session, and ordered the bill to be reported favorably with an amendment in the nature of a substitute.

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[1] The Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. No. 99-177, tit. II, 99 Stat. 1037, 1038 (Dec. 12, 1985), amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. No. 100-119, tit. I, 101 Stat. 754 (Sept. 29, 1987), further amended (codified as amended at 2 U.S.C. § 910-922 (1988) [hereinafter Gramm-Rudman-Hollings].

IV. How This Proposal Works

This bill would reduce the incentive to shift funding into the current year by providing a real consequence for that action: If legislation is enacted during that fiscal year that increased the deficit—and did not provide an offset—that action would run the risk of causing sequestration.

Under current law, once Congress has passed the legislation necessary to meet the Gramm-Rudman-Hollings law is completed for the year. Under this bill, however, if future legislative action pushed the deficit over the target—by more than the $10 billion cushion, a sequestration would be required to bring the deficit back down to the cushion level. This bill would not add another sequestration date—all the changes tie into the current process timetable.

Under this bill, Congress would be required to use CBO economic and technical assumptions throughout the process. All action would also be scored according to the same forecast throughout the year.

V. Rollcall Vote in Committee

Senator Conrad moved that the Committee report S. 1850, the Look Back Sequestration Act, with an amendment in the nature of a substitute.

The Committee agreed to the Conrad motion to report the Look Back Sequestration Act by a vote of 15 Yeas to 5 Nays.

YEAS	NAYS
Mr. Hollings	Mr. Sasser
Mr. Lautenberg	Mr. Johnston*
Mr. Simon	Mr. Riegle*
Mr. Sanford	Mr. Exon
Mr. Wirth	Mr. Domenici
Mr. Conrad	
Mr. Robb	
Mr. Armstrong	
Mr. Boschwitz	
Mr. Symms	
Mr. Grassley	
Mr. Kasten	
Mr. Nickles	
Mr. Rudman*	
Mr. Bond	

*This vote was made by proxy.

VI. Joint Referral Under the Standing Order

The Committee on the Budget has jurisdiction over the matter in the Debt Ceiling Reform Act by virtue of the standing order on the referral of budget-process legislation into which the Senate entered on August 4, 1977. Upon the reporting of the Act, the Presiding Officer will refer it to the Committee on Governmental Affairs pursuant to the standing order, with instructions that the Committee on Governmental Affairs shall have 30 days to report or be discharged.

VII. Regulatory Impact

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill." [2] The enactment of this legislation would not have significant regulatory impact.

VIII. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 28, 1990.

Hon. Jim Sasser,
Chairman, Committee on the Budget,
Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared a revised cost estimate for S. 1850, a bill to require sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more than $10 billion, as ordered reported by the Senate Committee on the Budget, July 25, 1990. This estimate supersedes the previous one dated August 24, 1990, and reflects an undated version of the bill received from the committee that changes the effective date from fiscal year 1991 to 1992.

S. 1850 would require the President to determine each October whether, for the previous fiscal year, Congressional action caused the deficit to exceed by more than $10 billion the deficit target set in the Balanced Budget and Emergency Deficit Control Act. If so, the President would have to sequester the amount of that excess in the new fiscal year, in addition to any amounts he might already have to sequester for the new year under existing law.

Under current law, once the deficit estimates are made in October for the fiscal year just started, and a sequester order, if necessary, is issued, there is no other automatic procedure for reducing the deficit later in the year if the actual deficit exceeds the target. The Congress can then enact supplemental appropriations or other legislation that would push the deficit above the target.

S. 1850 would encourage the Congress to examine the effects of its actions throughout the year by introducing the possibility that its actions in one year might directly increase the size of a sequester in the following year. For example, in October 1992 when S. 1850 would first take effect, the President might be required to order a sequester to bring the estimated 1993 deficit in line with the target for that year. In addition, if Congressional action during 1992 increased the 1992 deficit by more than $10 billion above the target, the President would have to order a further sequester for 1993 to save an amount equal to the overspending in 1992.

Enactment of this bill could have the effect of reducing federal spending, either by constraining Congressional action during a fiscal year, or by increasing the size of a sequester in a subsequent year. There is no basis, however, for predicting the extent to which either of these would occur.

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[2] Standing Rules of the Senate rule XXVI (11)(b)(1) (1990).

Enactment of this bill would not directly affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

IX. ADDITIONAL AND MINORITY VIEWS

Additional Views of Mr. Conrad

I am encouraged by the strong bipartisan support the Senate Budget Committee showed for the Look Back bill. I am also pleased that my colleagues, Senators Kohl, Robb, Daschle, Wirth, Boschwitz and Bond joined in cosponsoring this bill.

In my view, a central weakness of the Gramm-Rudman-Hollings law is the ability to maneuver around and manipulate the process. This bill will discourage one of those maneuvers—adding spending in the current fiscal year after the deficit target has been met. This unchecked spending, together with fiscal gimmickry, and overly optimistic economic assumptions has led to actual deficits that far exceed the targets that were supposedly met.

If the Gramm-Rudman-Hollings law is going to be retained, I believe it is important to make some necessary changes that would make the law work better. Closing the "current year" loophole is one of those changes. Legislative changes that add to the deficit after the target has been reached should be acknowledged. That additional spending increases the deficit, increases our debt burden and increases the budget deficit in the future. We should not ignore those implications. Ideally the increased spending should be fully offset at the time, but if that is not done, there should be some consequence.

I view this bill as a constructive modification on the budget process, not as a panacea. If we can tighten the process to force Congress to look at the problem rather than evade it, I believe we'll be closer to a solution.

Kent Conrad.

Minority Views of Mr. Sasser

I concur with Senator Conrad that loopholes exist in the Gramm-Rudman-Hollings law. I agree that such loopholes reduce the effectiveness of that statute in controlling the deficit. Nevertheless, we must ensure that the cure for these loopholes is not worse than the infirmity.

This measure would make two basic changes to the budget process. First, it would create the possibility every year of an additional "look-back" sequester. Secondly, it would require Congress, but not the President, to use Congressional Budget Office (CBO) economic and technical assumptions in estimating the budget deficit.

Presently, Gramm-Rudman-Hollings, requires across the board budget cuts at the beginning of each fiscal year if it appears that Congress will not meet the deficit target for that year. The Conrad bill would provide for an additional across the board sequester if the Congress had failed to meet the deficit target for the fiscal year that had just ended. Thus, in any given year, the Congress could face up to two budget sequesters for a given fiscal year.

Federal deficits in recent years have exceeded initial projections for a variety of reasons. Slower economic growth, increased funding for the savings and loan bail out, the passage of emergency supplemental bills, and continued disagreements between the Congressional Budget Office and the Office of Management and Budget over economic and technical estimates of the deficit, have all played a role in Gramm-Rudman-Hollings deficit targets being exceeded in the last several years.

The Conrad legislation would seek to remedy these problems by imposing an additional "look-back" sequester to the budget process. This raises the possibility of massive across the board cuts to the federal budget that could not be sustained. Here we would run the real risk of creating an automatic budget-slashing machine that could bring about budget cuts so deep that they would cut essential services to the bone and also produce or prolong a severe recession at the same time.

The second major part of this bill requires two sets of budget books in the deficit reduction process. The President would continue to use Office of Management and Budget (OMB) economic and technical assumptions in constructing the budget and estimating the deficit. At the same time, Congress would be required to use Congressional Budget Office (CBO) economic and technical assumptions which are generally more realistic than those of OMB, in constructing a budget resolution and subsequent reconciliation bills.

Consequently, the President could continue to rely on overly optimistic economic assumptions in developing his budget while the Congress would be required to use CBO economics in developing their budget. This would continue a basic mismatch in the budget process. It would do little if anything to promote more cooperation

between the two branches in arriving at a common set of economic and technical assumptions that would govern the budget process. This cooperation is greatly needed but it is not contemplated by this measure.

Senator Conrad is to be commended for his efforts at building stronger deficit-reduction policies. Unfortunately, the Look Back Sequestration Act is a step in the wrong direction. It does not provide for the basic budget process reforms that would enable us to move in the direction of steady, continued, long-term deficit reduction policies.

JIM SASSER.

X. Changes in Existing Law

Pursuant to paragraph 12 of rule XXVI of the Standing Rules of the Senate, this section displays changes to existing law made by the act. Existing law that the act would strike appears in black brackets, new material appears in italic type, and existing law to which the act makes no change appears in roman type.

Balanced Budget and Emergency Deficit Control Act of 1985

Section 251(a)

* * * * * * *

(C) estimate the budget levels of total revenues and outlays that may be anticipated for the preceding fiscal year as of August 15 of the preceding fiscal year, such estimates to be based on the same economic and technical assumptions on which the estimates for that fiscal year pursuant to subparagraph (A) were made the previous year,

(D) determine whether the projected deficit for the preceding fiscal year will exceed the maximum deficit amount for the preceding fiscal year and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993), such determination to be based on the same economic and technical assumptions on which the determination for that fiscal year pursuant to subparagraph (B) was made the previous year,

[(C)] *(E)* estimate the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, and

[(D)] *(F)* estimate the rate of real economic growth that will occur during such fiscal year, the rate of real economic growth that will occur during each quarter of such fiscal year, and the rate of real economic growth that will have occurred during each of the last two quarters of the preceding fiscal year.

Section 251(a)(2)

(2) Reports.—(A) Based on the estimates and determinations required in paragraph (91) and in accordance with requirements, specifications, definitions, and calculations required by this part, the Director of the Congressional Budget Office (in this part to be referred to as the "Director of CBO") shall issue a report to the Director of the Office of Management and Budget (in this part referred to as the "Director of OMB") and to the Congress on August 20 of the calendar year in which the fiscal year begins (or on October 15, 1987, in the case of fiscal year 1988) estimating the budget baseline levels of total revenues and total outlays for such fiscal

year, identifying the amount of any deficit excess for such fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal year [1993) estimating] *1993), identifying the amount of any deficit excess for the preceding fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal year 1993), estimating* the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative real economic growth, estimating the aggregate amount of required outlay reductions, and specifying, by account for non-defense programs and by account for defense programs the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during the fiscal year in order to make the reductions required by this part.

* * * * * * *

(C) The budget of the United States submitted by the President pursuant to section 1105, United States Code, and the supplemental budget submitted pursuant to section 1106, United States Code, shall include a determination whether the projected deficit for the fiscal year preceding the fiscal year for which the budget and supplemental budget are submitted will exceed the maximum deficit amount for the preceding fiscal year (such determination to be made using the same technical and economic assumptions that the Director of OMB used in making the initial determination of the deficit excess for that fiscal year in the report made pursuant to subparagraph (B)) and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993); and

[(C)] *(D)*(i) The technical and economic assumptions used by the Director of CBO to calculate the excess deficit shall also be used by the Director of CBO to calculate the unachieved deficit reduction, required outlay reductions and the amounts and percentages by which budgetary resources must be reduced.

* * * * * * *

(v) The Director of CBO, in making the determination of the deficit excess of a fiscal year in the revised report made pursuant to section (c)(1), shall use the same technical and economic assumptions that were used in making the initial determination of the deficit excess for that fiscal year in the report made pursuant to subparagraph (A).

(vi) The Director of OMB, in making the determination of deficit excess of a fiscal year in the revised report made pursuant to section (c)(2), shall use the same technical and economic assumptions that were used in making the initial determination of the deficit excess for that fiscal year in the report made pursuant to subparagraph (B).

Section 251(a)(3)(A)

(II) for fiscal year 1989, zero if the deficit excess is equal to or less than $10,000,000,000, or if not, the lesser of the deficit excess or the amount of unachieved deficit reduction; [or]

(III) for fiscal year [1990, 1991, 1992, or 1993] *1990 and 1991,* zero if the deficit excess for such fiscal year is equal to or less than the amount of the margin for such fiscal year specified in paragraph (10) of section 257, or if not, the amount of the deficit excess for such fiscal year; or

(IV) for fiscal year 1992, or 1993—

(aa) zero if the deficit excess for such fiscal year and the preceding fiscal year is equal to or less than the amount of the margin for each such fiscal year, respectively, specified in paragraph (10) of section 257; or

(bb)(aaa) if the deficit excess for such fiscal year is greater than the amount of the margin for such fiscal year specified in paragraph (10) of section 257, the amount of the deficit excess for such fiscal year; and

(bbb) if the deficit excess for the preceding fiscal year is greater than the amount of the margin for the preceding fiscal year specified in paragraph (10) of section 257, the amount of the deficit excess for the preceding fiscal year minus the amount of the margin for the preceding fiscal year.

CONGRESSIONAL BUDGET ACT OF 1974

Section 301(g)

[(g) ECONOMIC ASSUMPTIONS.—

[(1) It shall not be in order in Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that set forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

[(2) The joint explanatory statement accompaning a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

[(3) Subject to periodic reestimated based on changed economic conditions or technical estimates, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.]

(g) ECONOMIC ASSUMPTIONS.—

(1) Determinations under titles III and IV for any fiscal year shall be based upon the economic and technical assumptions of the Congressional Budget Office.

(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are not determined in accordance with paragraph (1). A point of order under this paragraph may be waived or suspended in the Senate or the House of Representatives only by the affirmative vote of three-fifths of the Members of the Senate or the House of Representatives duly chosen and sworn.

(3) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall clearly set forth the economic assumptions upon which such joint statement and conference report are based.

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